IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6257 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HR SOLANKI

Versus

DISTRICT PANCHAYAT

Appearance:

MR HAROOBHAI MEHTA for Petitioner

MR HS MUNSHAW for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 08/09/2000

ORAL JUDGEMENT

#. Heard Mr.Ketan Dave, learned advocate appearing on behalf of the petitioner and Mr.H.S.Munshaw, learned advocate appearing on behalf of the respondent No. 1 & 2.

#. In the present petition, the petitioner has challenged the transfer order dated 24th January, 1990 Annexure-A to the petition whereby, the petitioner was transferred by the Deputy District Development Officer, Palanpur from Harkudia to Diodar. The second challenge is against the show cause notices dated 21st March, 1990 and 15th July, 1990 served to the petitioner. At the time when the notice has been issued by this Court on 22nd August, 1990 which was made returnable on 3rd September, 1990 and ad-interim stay of further proceedings in pursuance of show cause notice Annexure-C was granted and thereafter the said ad-interim relief continued during the pendency of the petition by order dated 27th November, 1990 and on that date, the matter has been admitted by this Court. On 27th November, 1990, this Court passed order issuing RULE and ad-interim stay granted earlier to continue and the petitioner was allowed to work in the meantime at Harkudia, if no other regular posting is made there.

#. In the present petition, affidavit-in-reply has been filed on behalf of the respondent Nos. 1 & 2 and rejoinder is also filed by the petitioner. When the matter is taken up for final hearing, Mr.Munshaw, learned advocate for the respondent has submitted that the petitioner was allowed to work at Harkudia upto 1st July, 1995 from the date of transfer dated 24th January, 1990 in view of the order passed by this Court. Thereafter, the petitioner was transferred from 1st July, 1995 at Morvad and at present the petitioner is working at Morvad,for that the petitioner has not pointed any grievance before the respondent authorities. In view of the fact that in response of two show cause notices, after departmental inquiry, the competent authority has imposed punishment of stoppage of one increment without cumulative effect to the petitioner and therefore, according to the submission made by Mr.Munshaw, this petition has become infructuous. Learned Advocate Mr.Dave appearing on behalf of the petitioner submits that if the petitioner is working at Morvad from 1st July, 1995 then against transfer impugned in this petition, this petition has now become infructuous but in respect of the punishment imposed on the petitioner, it is open to the petitioner to challenge the same before the appropriate forum. Considering the submission of both the learned advocates, according to my opinion, in respect of the challenge of transfer, the present petition has become infructuous and in respect of the punishment aspect in response to two show cause notice, if the petitioner desirous to challenge the punishment order which has been passed by the competent authority,

it is obviously open for him to challenge the same before the appropriate forum. In view of aforesaid observations,the present petition stands disposed of as become infructuous. Rule discharged. Ad interim relief granted earlier shall stand vacated. No order as to costs.

Date : 8-9-2000 [H.K.Rathod,J.]

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